

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

JOSEPH CLARENCE EASTMAN,

Plaintiff,

v.

TUOLUMNE COUNTY JAIL, *et al.*,

Defendants.

Case No. 1:20-cv-01303-NONE-BAM (PC)

ORDER DENYING MOTION FOR
SUBPOENAS AS PREMATURE

(ECF No. 24)

Plaintiff Christopher L. Brys (“Plaintiff”) is a former county jail inmate and current state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983.

On February 12, 2021, the Court screened Plaintiff’s second amended complaint and issued findings and recommendations recommending dismissal of this action based on Plaintiff’s failure to comply with Federal Rule of Civil Procedure 8 and failure to state a cognizable claim upon which relief may be granted. (ECF No. 22.) Plaintiff filed untimely objections on March 18, 2021. (ECF No. 23.) Those findings and recommendations are currently pending before the District Judge.

Currently before the Court is Plaintiff’s motion for subpoenas, filed March 26, 2021. (ECF No. 24.) In this motion, Plaintiff requests paperwork to subpoena papers from various entities and individuals he has named in this action. (*Id.*)

1 Plaintiff's request for subpoenas is premature. As Plaintiff has been informed, the Court
2 is required to screen complaints brought by prisoners seeking relief against a governmental entity
3 or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). Plaintiff's complaint, or
4 any portion thereof, is subject to dismissal if it is frivolous or malicious, if it fails to state a claim
5 upon which relief may be granted, or if it seeks monetary relief from a defendant who is immune
6 from such relief. 28 U.S.C. § 1915A(b)(1), (2); 28 U.S.C. § 1915(e)(2)(B)(ii).

7 The undersigned has screened the second amended complaint and found that Plaintiff has
8 failed to state any cognizable federal claims, and recommended that this action be dismissed. If
9 those findings and recommendations are adopted, this case will be dismissed, no defendants will
10 be served, and no subpoenas will be necessary. If the findings and recommendations are not
11 adopted and the District Judge finds that this case should proceed on one or more cognizable
12 claims, then the Court will open discovery and Plaintiff may renew his motion for subpoenas, if
13 necessary.

14 Accordingly, Plaintiff's motion for subpoenas, (ECF No. 24), is HEREBY DENIED as
15 premature.

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17 IT IS SO ORDERED.

18 Dated: March 29, 2021

/s/ Barbara A. McAuliffe
19 UNITED STATES MAGISTRATE JUDGE
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